

WASHINGTON—This morning, at a hearing focused on the Obama Administration's decision that the Defense of Marriage Act (DOMA) is unconstitutional, U.S. Representative Mike Quigley (IL-05) continued his efforts to fight back against inequality by stating that the unjust law was based on nothing more than a moral disapproval of gay and lesbian couples. Quigley cited the Supreme Court, which has said numerous times that expressing moral disapproval for a group is an illegitimate basis for a law.

After describing in detail DOMA's lack of constitutionality and misguided legislative history, Quigley added, **"Let's be clear: DOMA isn't just an unconstitutional law, it's dumb public policy. Every one of the stated rationales for DOMA has been refuted by our better judgment or our shared experiences ... There's nothing radical about being allowed to marry the person you hold closest in your heart. And there's nothing radical about expecting that union to receive the full protection of the law."**

*(quote is excerpted from full text below)*

Quigley delivered the statement in the Constitution Subcommittee of the Judiciary Committee earlier today.

Full remarks are as follows:

Mr. Chairman:

The rights of our citizens are not granted by any branch of government, they are guaranteed by the Constitution.

When the Legislative or the Executive Branches fail to uphold these rights, it has historically been the Judicial Branch which returned our nation to the principles of the Constitution.

The Supreme Court struck down school segregation in *Brown v. Board of Education of Topeka*, Kansas after a century of inaction by the U.S. Congress.

In *United States v. Virginia*, the Supreme Court ended gender discrimination at The Virginia Military Institute.

And in *Gill v. OPM*, and *Massachusetts v. HHS*, a federal court ruled that Section 3 of DOMA is unconstitutional.

Here again, the judicial branch returned our nation to the principles of the Constitution. Equal Protection under the law demanded no less.

In 1996, Congress got it wrong with the passage of DOMA. But in 2010, our Judiciary got it right.

Judge Tauro reached the decision that Section 3 of DOMA could not survive constitutional scrutiny, for it violates the equal protection clause of the 5<sup>th</sup> Amendment.

Section 3 of DOMA is not about who has the right to marry; the states decide that. Section 3 is about how couples who already are married under state law will be treated under federal law.

The Government Accountability Office (GAO) has estimated that more than one thousand, one-hundred (1,100) federal laws use marital status to determine federal responsibilities and rights.

Section 3 of DOMA excludes gay and lesbian couples from being considered as family under each and every one of these laws.

This is the opposite of equal protection under the law.

Recently, the Justice Department followed course in concluding that section 3 of DOMA is unconstitutional. By doing so, the Justice Department is not abdicating its constitutional responsibilities, it is executing them.

But let's be clear: DOMA isn't just an unconstitutional law, it's dumb public policy.

Every one of the stated rationales for DOMA has been refuted by our better judgment or our shared experiences.

DOMA was said to advance the government's interest in traditional notions of morality.

But as the Supreme Court made clear in *Romer vs. Evans*, "the fact that the governing majority in a State has traditionally viewed a particular practice as immoral is not a sufficient reason for upholding a law..."

DOMA was said to defend and nurture traditional heterosexual marriage.

But the claim that favoring heterosexual marriage is justified because that provides a better environment for children has been rejected by leading medical, psychological, and social welfare organizations.

These organizations agree that gay and lesbian parents are equal to their heterosexual counterparts.

DOMA was said to protect state sovereignty and democratic self-governance.

Instead, it does the opposite. Section 3 of DOMA violates the state's right to regulate marriage by inducing the state to violate the equal protection right so its citizens.

The legislative record of DOMA shows that its true purpose was simply to express moral disapproval of gay and lesbian couples and families. During floor debate, members repeatedly voiced disapproval of homosexuality as "immoral" or "depraved."

That legislative history represents a stain on this great institution we are all a part of today as well as a betrayal of one of American's most fundamental values: that in this country, we judge every individual on the content of his character.

DOMA was passed by Congress in 1996. The fact that it is such recent history makes it more painful. For even then, I *believe* we knew better.

But more importantly, as I look around the room today at my esteemed colleagues on both sides of the aisle, I **know** we know better.

So that truth begs one essential question: Why are we here today discussing this?

Senator McGovern wrote in 1972, "what is right has always been called radical by those with a stake in things that are wrong."

And although there was a time when mantras like this were a rallying cry at GLBT gatherings in support of issues such as same-sex marriage, it need not be anymore.

Because there's nothing radical about being allowed to marry the person you hold closest in your heart. And there's nothing radical about expecting that union to receive the full protection of the law.

Equal Justice Under the law. These are the words that are emblazoned in stone above the entrance to the highest court in the land.

At times in our history we have fallen woefully short of delivering on that promise. But through the courage and steadfast determination of a vocal few who have insisted on nothing less, we have slowly but surely continued to perfect our union.

Equal Justice under the law. Our Courts get that. Our Executive Branch gets that. It's time that our Legislative branch does the same.

Thank you; and I yield back.

Quigley, in his second term in Congress, has made LGBT equality one of his [top legislative priorities](#) and is [co-sponsor of the Respect for Marriage Act](#), which would repeal DOMA and ensure that couples who assume the serious legal responsibilities of marriage are treated fairly under federal law.